

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAROK

CIVIL CASE NO. 4 OF 2016

WYCLIFFE ODARI MWAVALI.....PLAINTIFF

VERSUS

NAROK COUNTY COUNCIL.....1ST DEFENDANT

KESIKE OLE WOTUNI.....2ND DEFENDANT

RULING

1. This ruling is in response to counsel for the plaintiff's application that I disqualify myself from hearing and determining this application, which was brought under certificate of urgency. On 8/3/2018, I certified the application as urgent and to be heard inter-parties on 14/3/2018. On that date, Ms Muigai for the plaintiff informed the court through Ms Kudate who held her brief that the court file be placed aside as rains had cut off part of the road, where she was to pass. As a result, I did put the file aside until 11.30 a.m. At 11.30, Ms Muigai arrived and addressed the court. She indicated that she had been served with a response by Ms Kemboy advocates for the defendants dated 12/3/2018.

2. She further stated that she had seen the ruling of this court, which she intended to appeal against. She then told the court that she was in a position to effectively file a notice of appeal within the week of 14/3/2018. In response to her submissions, Mr. Kamwaro who held brief for Mr. Kemboy drew the attention of Ms Muigai that it was her application dated 6/3/2018 that was scheduled for hearing that morning of 14/3/2018 and not the issue of filing of notice of appeal.

3. In response to that, Ms Muigai submitted that she had no response to that pending application for disqualification of this court. Finally, she submitted that it was upon the court to do its part as she was proceeding with the appeal.

4. I find from the submissions of Ms Muigai that she urgency in her application was no longer in existence by 14/3/2018 and that is why she was not keen to prosecute the said application even after her attention had been drawn to it by Mr. Kamwaro. Finally, I further find from her conduct that she had lost interest in her application because as she put it; *"let the court do its part as I am also proceedings with the appeal."*

5. The upshot of the foregoing is that the said application, which was brought under certificate of urgency is hereby dismissed with no order as to cost.

Ruling delivered in open court this 10th day of April, 2018 in the presence of Mr. Kiptoo holding brief for Ms Muigai and Mr. Kamwaro holding brief for Mr. Kemboy.

J. M. BWONWONGA

Judge

10/4/2018